

**REMARKS/ARGUMENTS**

Applicant submits this amendment in response to the Office Action mailed July 13, 2005. A petition for a two-month extension of the term for response to said Office Action, to and including December 13, 2005, is transmitted herewith.

Applicant respectfully requests reconsideration and allowance of claims 1, 3-8 and 10-21 that are pending in the present application. Applicant has amended claim 1. Applicant has added new claim 21. No new matter has been added by these claim amendments. By the present amendment, applicant has cancelled claims 2 and 9.

Claims 1, 3-6, 8, 11 and 15-20 were rejected under 35 U.S.C. 102(b) as being clearly anticipated by Berthelsen (U.S. Patent No. 1,591,207), hereinafter "Berthelsen." Claim 1 has been amended to disclose "a heater within at least one of said pivotally connected arms." Berthelsen does not teach or suggest such a feature. Berthelsen discloses an upper plate 20 and a lower plate 21. The lower wave member 21 is removably supported upon a heating unit. (Figs. 1-3; pg. 1, lns. 92-106.) However, there is no pivotally connected arm within which a heating element could exist. As such, since Berthelsen does not teach or suggest "a heater within at least one of said pivotally connected arms," applicant respectfully submits that the rejection as to claim 1 should be withdrawn.

The rejection as to claims 3-6, and 8 should also be withdrawn, inasmuch as each of these claims depends, directly or indirectly, from claim 1.

Claim 11 discloses a hair contacting element of a hair styling tool with "a heatable hair contacting surface having a plurality of recessed apertures, wherein said plurality of recessed apertures are in communication with a corresponding number of vents in said hair styling tool to vent moisture, heat and/or pressure." Berthelsen does not teach or suggest such a feature. Berthelsen discloses upper plate 20 "formed with a series of apertures 33 and the lower plate may be similarly apertured if found desirable." (Pg. 2, lns. 33-35.) However, these apertures are not recessed within a heatable hair contacting surface, as disclosed in claim 11 of the instant application. As such, applicant respectfully submits that the rejection as to claim 11 should be withdrawn.

The rejection as to claims 15-20 should also be withdrawn, inasmuch as each of these claims depends, directly or indirectly, from claim 11.

Claims 1, 3-7, 9-11 and 14-17 were rejected under 35 U.S.C. 102(b) as being anticipated by Tsuji et al. (U.S. Patent No. 5,223,694), hereinafter "Tsuji". Claim 1 has been amended to disclose a hair styling tool having one or more apertures in the form of perforated grooves. Tsuji does not teach or suggest such a feature. Tsuji discloses a hair styling iron wherein "resulting steam is fed outwardly of the first pipe 10 through a number of minute vents 12 formed in the top and bottom outer surfaces for enhancing the hair styling of the hair either clamped between the first pipe 10 and the clamp tongue 50 or held between the first and second pipes 10 and 20." (Col. 5; lns. 33-39.) However, Tsuji does not disclose one or more apertures in the form of perforated grooves. As such,

applicant respectfully submits that the rejection as to claim 1 should be withdrawn.

The rejection as to claims 3-7 and 9-10 should also be withdrawn, inasmuch as each of these claims depends, directly or indirectly, from claim 1.

Claim 11 discloses a hair contacting element of a hair styling tool with "a heatable hair contacting surface having a plurality of recessed apertures, wherein said plurality of recessed apertures are in communication with a corresponding number of vents in said hair styling tool to vent moisture, heat and/or pressure." Tsuji does not teach or suggest such a feature. Tsuji discloses "a number of minute vents 12 formed in the top and bottom outer surfaces." (Fig. 1; col. 5, lns. 35-36.) However, these vents are not recessed apertures. Since Tsuji does not disclose a hair contacting element with a heatable hair contacting surface having a plurality of recessed apertures, applicant respectfully submits that the rejection as to claim 11 should be withdrawn.

The rejection as to claims 14-17 should also be withdrawn, inasmuch as each of these claims depends, directly or indirectly, from claim 11.

Claims 1-8 were rejected under 35 U.S.C. 102(b) as being anticipated by Lo (U.S. Patent No. 6,223,753), hereinafter "Lo". Claim 1 has been amended to disclose a hair styling tool wherein "one or more apertures are in communication with one or more vents of the hair styling tool to vent moisture, heat and/or pressure." Lo does not teach or suggest such a feature. Lo discloses through holes 232 with the head of a bolt 233 to fit in so as not to protrude out of the outer surface of the base 23 to hamper connected with the upper and the lower styling

member 25 and 24. Lo does not disclose a hair styling tool wherein one or more apertures are in communication with one or more vents of the hair styling tool to vent moisture, heat and/or pressure. As such, applicant respectfully submits that the rejection as to claim 1 should be withdrawn.

The rejection should also be withdrawn as to claims 3-8, inasmuch as each of these claims depends, directly or indirectly, from claim 1.

Claims 7 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Berthelsen in view of Lo. Claim 7 depends from amended claim 1, which discloses "a handle portion having a pair of pivotally connected arms, each arm having a hair contacting element; and a heater within at least one of said pivotally connected arms; wherein at least one of said hair contacting elements has one or more apertures therein, wherein said one or more apertures are in the form of perforated grooves, and wherein said one or more apertures are in communication with one or more vents of the hair styling tool to vent moisture, heat and/or pressure." Berthelsen does not teach or suggest the elements of this claim. As previously noted, Berthelsen discloses an upper plate 20 and a lower plate 21. The lower wave member 21 is removably supported upon a heating unit. (Figs. 1-3; pg. 1, lns. 92-106.) However, there is no pivotally connected arm within which a heating element could exist. Nothing in Lo has been asserted as teaching or suggesting anything that would remedy this deficiency in Berthelsen. In fact, Lo teaches away from claim 1 in that Lo does not allow for the venting of moisture, heat and/or pressure. As previously noted, Lo discloses through holes 232 with the head of a bolt 233 to fit in so as not to

protrude out of the outer surface of the base 23 to hamper connected with the upper and the lower styling member 25 and 24. This bolt in through holes 232 would prevent any venting from taking place. As such, applicant respectfully requests that this rejection be withdrawn.

Claims 12, 13 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji in view of Lo. Claim 12, 13, and 18-20 depend from claim 11, which discloses a hair contacting element with a heatable hair contacting surface having a plurality of recessed apertures. Tsuji does not teach or suggest such a feature. As previously noted, Tsuji discloses "a number of minute vents 12 formed in the top and bottom outer surfaces." (Fig. 1; col. 5, lns. 35-36.) Lo has not been asserted as remedying the deficiency in Tsuji. As previously noted, Lo discloses through holes 232 with the head of a bolt 233 to fit in so as not to protrude out of the outer surface of the base 23 to hamper connected with the upper and the lower styling member 25 and 24. As Lo does not disclose a hair contacting element wherein a plurality of recessed apertures are in communication with a corresponding number vents in the hair styling tool to vent moisture, heat and/or pressure, applicant submits that the rejection as to claims 12, 13 and 18-20, which depend from independent claim 11, should be withdrawn.

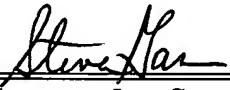
Newly added claim 21 is also patentable over the cited and relied upon references. None of the cited references disclose or suggest a hair styling tool comprising a handle portion having a pair of pivotally connected arms, with each arm having a hair contacting element, a heater within at least one of the pivotally connected arms, and one or more apertures in at least one of said hair contacting

elements and one or more apertures in at least one additional surface of said pivotally connected arms, where the apertures are adapted to vent moisture, heat and/or pressure.

In view of the foregoing, applicant respectfully requests favorable reconsideration and withdrawal of the rejections of the claims. Also, applicant respectfully requests that this application be passed to allowance.

Respectfully submitted,

Dated: 11/16/05

  
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Steven A. Garner, Esq.  
Registration No. 52,475  
Attorney for Applicants  
Conair Corporation  
One Cummings Point Rd  
Stamford, CT 06902  
Tel: (203) 921-2844



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